

**DETAILED ACTION**

1. This office action is in response to the communication filed on 01/19/2010.
2. Claims 1-94 have been cancelled and claims 95-108, 110-123, and 125-133 are presented for examination.
3. Amendments to claims 95, 105-106, 111-115, 119-120, and 123 have been entered and considered.

**Claim Rejections - 35 USC § 101**

35 U.S.C. 101 reads as follows:

*Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.*

4. *Claims 95-108, 110-123, and 125-133 are rejected under 35 U.S.C. 101, because the claimed invention is directed to a non-statutory subject matter that is non-functional descriptive material. Descriptive material that cannot exhibit any functional interrelationship with the way in which computing processes are performed does not constitute a statutory process, machine, manufacture or composition of matter. Certain types of descriptive material, such as mere arrangements or compilations of facts or data, are merely stored so as to be read or outputted by a computer without creating any functional interrelationship, either as part of the stored data or as part of the computing processes performed by the computer, then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer. Such "descriptive material" including "a listing of the first ad campaign and each of the additional ad campaigns for selection and modification by the advertiser" and managing each of the ad campaigns "by the advertiser using web-based self-serve interface," are*

*not a process, machine, manufacture or composition of matter. The claimed "data" elements are simply stored information that is presented to the user. The "data" does not have any imparted functionality, and this data per se is therefore non-statutory material. Also, no additional steps are required to differentiate these limitations from the prior art. Additionally, as found by the BPAI in Ex Parte Curry, No. 2005-0509 (30 June 2005), a particular type of "data in the databases and communication on the distributed network does not functionally change either the data storage system or communication system used in the method...Nonfunctional descriptive material cannot render non-obvious an invention that would have otherwise been obvious." In re Ngai, 367 F. 3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004). Cf. In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability). A process that differs from the prior art only with respect to nonfunctional descriptive material that cannot alter how the process steps are to be performed to achieve the utility of the invention. Thus, if the prior art suggests storing a song on a disk, merely choosing a particular song to store on the disk would be presumed to be well within the level of ordinary skill in the art at the time the invention was made. The difference between the prior art and the claimed invention is simply a rearrangement of nonfunctional descriptive material. Ex Parte Curry, Ex Parte Mathias, No. 2005-1851 (10 August 2005). Also, whether the advertiser manages the campaigns by using web-based self-serve interface or whether someone else manages the campaigns does and whether the ad campaign is to be managed from among the ad*

*campaigns does not further limit the providing access to the self-serve interface and providing a management screen method steps. The actual steps of providing access to the self-serve interface and providing a management screen do not change with what is being recited after that step as underlined by the Applicant in his amendment to claim 115. Again, the step is to receive a selection of the ad campaign but whether that ad campaign has to be managed from among the ad campaigns is just non-functional descriptive material that is not being given patentable weight, since no additional steps are being performed to determine whether that ad campaign has to be managed from among the ad campaigns. Also, the step is providing a management screen but whether each advertisement is managed by the advertiser using the web-based self-serve interface is also just non-functional descriptive material is not being given patentable weight, since no additional steps are being performed to determine whether each advertisement is managed by the advertiser using the web-based self-serve interface or that this is actually being performed.*

**Claim Rejections - 35 USC § 112**

5. *The second paragraph of 35 U.S.C. 112 is directed to requirements for the claims:*

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention. There are two separate requirements set forth in this paragraph:*

- (A) the claims must set forth the subject matter that applicants regard as their invention; and  
(B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.*

6. *Claims 95-108 and 110-114 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject*

*matter which applicant regards as the invention. The claims recite "wherein the selected advertisements from the first ad campaign can be selected for the additional ad campaigns," and it is unclear what the Applicant means by this limitation. Specifically, it is unclear if advertisements are actually selected or not for the additional ad campaigns, since "can be selected" is not a positive recitation. It is interpreted to mean the advertisements are selected for the additional ad campaigns. Appropriate clarification is required.*

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 95-97, 100-107, and 112-114 are rejected under 103(a) as being unpatentable over Wagner et al. (Publication Number 2002/0073034 hereinafter Wagner) in view of Mason et al. (Patent Number 6,401,075 hereinafter Mason) *and further in view of Davis et al. Patent number 6,269,361 (hereinafter Davis).*

In reference to claim 95, Wagner teaches a method *for providing* a self-serve interface over the Internet for advertisers to establish ad campaigns comprising: receiving a request from an advertiser for creating a *first* ad campaign comprising one or more advertisements (abstract, page 1 paragraphs 7 and 8, page 2 paragraph 25, page 3 paragraphs 34 and 36, and Figure 3); providing the self-serve interface to the

advertiser for establishing *the first* ad campaign (page 3 paragraphs 34 and 36 and Figure 3), further wherein establishing the ad campaign by the advertiser comprises: receiving a selection of the one or more advertisements for the campaign from the advertiser (page 3 paragraphs 34 and 36 and Figure 3); receiving a selection of dates for displaying the selected advertisements from the advertiser (page 3 paragraph 35 and Figure 3); *and* receiving a budget from the advertiser that establishes a maximum amount to spend for the display of the selected advertisements (page 3 paragraph 38 and Figure 3); *wherein the self-serve interface provides for the establishment of additional ad campaigns (i.e. a user can create multiple ads for sending to multiple platforms and mediums at different times), the establishment of each of the additional ad campaigns comprising the same steps for the establishment of the first ad campaign, further wherein the selected advertisements from the first ad campaign can be selected for the additional ad campaigns (i.e. a user can use the same ad multiple times for different dates in the future) (page 3 paragraphs 34 and 36, page 5 paragraph 55 to page 6 paragraph 56, and Figure 3);* providing a management screen from the self-serve interface for viewing and editing, by the advertiser, the selection of the advertisements, the selection of the dates, and the budget (page 3 paragraphs 34-38 and Figure 3).

Wagner also teaches obtaining name, address, and credit card information from the advertiser (page 3 paragraph 34 and Figure 3). Wagner does not specifically teach establishing an online account for the advertiser, the online account comprising log in information, wherein access to the self-serve interface by the advertiser is based on the log in information. Mason teaches establishing an online account for the advertiser, the

online account comprising log in information, wherein access to the self-serve interface by the advertiser is based on the log in information (col. 5 lines 33-46, col. 7 lines 5-13, and Figure 1). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include establishing an online account for the advertiser, the online account comprising log in information, wherein access to the self-serve interface by the advertiser is based on the log in information to prevent the advertiser from having to re-enter credit card and identification information each time the advertiser uses the interface.

*Wagner does not teach viewing and editing ad campaigns in real-time. Mason teaches viewing and editing ad campaigns in real-time (abstract, col. 4 lines 54 to col. 5 lines 3, and col. 6 lines 27-65). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include viewing and editing ad campaigns in real-time to ensure that more popular ads are shown to users.*

*Wagner does not specifically teach the management screen providing a listing of the first ad campaign and each of the additional ad campaigns for selection and modification by the advertiser. Davis teaches the management screen providing a listing of the first ad campaign and each of the additional ad campaigns for selection and modification by the advertiser (col. 18 lines 37 to col. 19 lines 58 and Figure 9). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include the management screen providing a listing of the first ad campaign and each of the additional ad campaigns for selection and modification by the advertiser to enable the advertiser to manage multiple campaigns from the same*

*interface simultaneously without accessing the information for each campaign individually.*

8. In reference to claim 96, Wagner teaches the method wherein the selection of one or more advertisements comprises providing an interface for the advertiser to create the advertisements (page 3 paragraphs 34 and 36 and Figure 3).

9. In reference to claim 97, Wagner teaches the method wherein the creation of one or more advertisements comprises: providing a plurality of template advertisements (page 3 paragraphs 36 and 37, page 4 paragraphs 41 and 42, and Figure 3); obtaining a selection of one of the template advertisements; obtaining information to be inserted into the selected template advertisement (page 3 paragraphs 36 and 37, page 4 paragraphs 41 and 42, and Figure 3); and creating the selected advertisement based on the information to be inserted into the template advertisement (page 3 paragraphs 36 and 37, page 4 paragraphs 41 and 42, and Figure 3).

10. In reference to claims 100 and 101, Wagner does not teach displaying an active status of the ad campaign to the advertiser. Mason teaches displaying an active status of the ad campaign to the advertiser (col. 6 lines 27-65). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include displaying an active status of the ad campaign to the advertiser to keep the advertiser informed about the success of the advertisement in real-time.

11. In reference to claim 102, Wagner does not teach the method further comprising reviewing content of the advertisements from the established ad campaign. Mason teaches reviewing content of the advertisements from the established ad campaign (col.

3 lines 35-42 and col. 5 lines 53-61). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include reviewing content of the advertisements from the established ad campaign to ensure that there are no typographical errors in the text of the advertisements.

12. In reference to claim 103, Wagner does not teach the method wherein the reviewing determines if the advertisements are approved or not approved, and when the advertisements are deemed not approved, the advertisements are rejected and the ad campaign status is suspended, and when the advertisements are deemed approved, the advertisements are accepted and the ad campaign status is active. Mason teaches reviewing the selected advertisement to determine if the advertisement is approved or not approved (col. 3 lines 35-42 and col. 5 lines 53-61), and when the advertisement is deemed not approved, the advertisement is rejected and the ad campaign status is suspended (i.e. a new advertisement is created) (col. 5 lines 53-61), and when the advertisement is deemed approved, the advertisement is accepted and the ad campaign status is active (col. 5 lines 53-61). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to review if the advertisements are approved or not approved, and when the advertisements are deemed not approved, the advertisements are rejected and the ad campaign status is suspended, and when the advertisements are deemed approved, the advertisements are accepted and the ad campaign status is active to ensure that there are no typographical errors in the text of the advertisements and only advertisements that do not have any errors are displayed.



13. In reference to claim 104, Wagner does not teach the method wherein the advertiser can modify the status of the ad campaign through the self-serve interface. Mason teaches the method wherein the advertiser can modify the status of the ad campaign through the self-serve interface (col. 4 lines 54-67 and col. 6 lines 27-59). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include modifying the status of the ad campaign through the self-serve interface to enable the advertiser to replace non-performing advertisements with better performing advertisements.

14. In reference to claim 105, Wagner *does not specifically teach the method wherein the management screen provides an interface for the advertiser to modify each of the campaigns. Davis teaches the method wherein the management screen provides an interface for the advertiser to modify each of the campaigns (col. 18 lines 37 to col. 19 lines 58 and Figure 9). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include the management screen providing an interface for the advertiser to modify each of the campaigns to enable the advertiser to manage multiple campaigns from the same interface simultaneously without accessing the information for each campaign individually.*

15. In reference to claim 106, Wagner does not teach the method further comprising providing a campaign summary report for viewing details for *the first ad campaign and for each of the multiple ad campaigns*. Mason teaches the method further comprising providing a campaign summary report for viewing details for *the first ad campaign and for each of the multiple ad campaigns* (col. 6 lines 27-col. 7 lines 13). It would have been

obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include providing a campaign summary report for viewing details for *the first ad campaign and for each of the multiple ad campaigns* to enable the advertiser to see the impact of the advertisements and to make decisions regarding continuing, replacing, or ending the showing of the advertisements.

16. In reference to claim 107, Wagner teaches the method wherein receiving the budget from the advertiser comprises receiving an amount of funds used for paying for the display of the ad campaign (page 3 paragraphs 34 and 38, page 4 paragraphs 38 and 45 and Figure 3).

17. Claims 112-14 are rejected under 103(a) as being unpatentable over Wagner in view of Mason and further in view of Davis.

In reference to claim 112, Wagner does not teach the method wherein establishing the ad campaign by the advertiser further comprises receiving, *in real time*, a request from the advertiser for an alert regarding pricing availability. Davis teaches the method wherein establishing the ad campaign by the advertiser further comprises receiving, *in real time*, a request from the advertiser for an alert regarding pricing availability (col. 13 lines 64 to col. 14 lines 20). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include receiving, *in real time*, a request, from the advertiser for an alert regarding pricing availability to enable an advertiser to monitor the cost associated with listing an advertisement without having to visit the website continuously.

18. In reference to claims 113 and 114, Wagner does not teach the method wherein

establishing the ad campaign by the advertiser further comprises receiving a request from the advertiser for an e-mail alert when the amount of funds drops below a predetermined threshold. Davis teaches the method wherein establishing the ad campaign by the advertiser further comprises receiving a request from the advertiser for an e-mail alert when the amount of funds drops below a predetermined threshold (col. 13 lines 64 to col. 14 lines 20). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include receiving a request from the advertiser for an e-mail alert when the amount of funds drops below a predetermined threshold to enable the advertiser to ensure that his account is not suspended as a result of non-payment and the advertisement remains active.

19. Claims 98, 99, 108, 110, and 111, are rejected under 103(a) as being unpatentable over Wagner in view of Mason, *further in view of Davis*, and further in view of Official Notice.

In reference to claims 98 and 99, Wagner teaches the method wherein the information obtained for the selected template advertisement comprises a description (page 3 paragraphs 36 and 37, page 4 paragraphs 41 and 42, and Figure 3).

Wagner does not specifically teach that the advertising information also comprise a URL and an image. Official Notice is taken that it is old and well known for advertising information to include a URL and an image. For example, an advertisement in the newspaper can list a URL where additional information about the advertised product can be obtained such as pictures of a house or an item. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's

invention to include in the advertising information a URL to enable viewers to access videos or other images associated with the text advertisement by viewing the URL.

20. In reference to claim 108, Wagner does not teach the method wherein receiving the budget from the advertiser comprises receiving a request for an automatic payment plan that automatically replenishes the amount of funds when the amount drops below a predetermined threshold. Official Notice is taken that it is old and well known to receive a request for an automatic payment plan that automatically replenishes the amount of funds when the amount drops below a predetermined threshold. For example, people set up automatic bill pay features to pay their utilities from their checking accounts and when a balance is due, the amount that is due is transmitted to the utility account to make it come to a zero balance automatically. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include receiving a request for an automatic payment plan that automatically replenishes the amount of funds when the amount drops below a predetermined threshold to enable the advertiser to continue advertising a particular advertisement without requiring the advertiser to resubmit billing information manually for the longer advertising time period.

21. In reference to claims 110 and 111, Wagner does not teach the method wherein establishing the ad campaign by the advertiser further comprises receiving a name for the ad campaign from the advertiser and wherein the management screen for the advertiser comprises viewing and editing the name of the ad campaign by the advertiser *in real time*. Official Notice is taken that it is old and well known to receive a name for the ad campaign from the advertiser wherein the management screen for the advertiser

comprises viewing and editing the name of the ad campaign by the advertiser *in real time*. For example, TV stations that play advertisements have to assign some kind of identifying information to an advertisement belonging to an advertiser in order to know when to show which advertisement. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include receiving a name for the ad campaign from the advertiser wherein the management screen for the advertiser comprises viewing and editing the name of the ad campaign *in real time* by the advertiser to enable the publisher to keep track of which advertisements are associated with which advertisers and to keep track of when and where each advertisement needs to be displayed.

22. Claims 115-123 *and* 125-133 are rejected under 103(a) as being unpatentable over Wagner in view of Mason, further in view of Davis et al (Patent Number 6,269,361 hereinafter Davis), and further in view of Official Notice.

In reference to claim 115, Wagner teaches in a computer readable storage medium having stored therein data representing instructions executable by a programmed processor for providing a web-based self-serve interface to an advertiser for managing ad campaigns, the storage medium comprising instructions for: providing access to the web-based self-serve interface to the advertiser for managing the ad campaigns (page 3 paragraphs 34 and 36 and Figure 3), wherein management of the ad campaign by the advertiser comprises: receiving, from the advertiser, a selection of the ad campaign (page 3 paragraphs 34 and 36 and Figure 3); receiving, from the advertiser, a request to create an advertisement that includes text (page 3 paragraphs 36 and 37,

page 4 paragraphs 41 and 42, and Figure 3); receiving, from the advertiser, a selection of one or more available advertisements to be included in the *managed* ad campaign, wherein the available advertisements comprise existing advertisements and the created advertisement (page 3 paragraphs 34, 36, and 37 and Figure 3); receiving, from the advertiser, a selection of a time frame for displaying the selected advertisements (page 3 paragraph 35 and Figure 3); receiving, from the advertiser, a selection of a cost for displaying the selected advertisements (page 3 paragraph 38, page 4 paragraphs 38 and 45, and Figure 3); and receiving, from the advertiser, a budget amount to spend during the *managed* ad campaign (page 3 paragraph 38 and Figure 3); and providing a management screen in the web-based self-serve interface for the advertiser to view and edit the creation and selection of the advertisements, the selection of the time frame, the selection of the cost for displaying, and the budget amount (page 3 paragraphs 34-38 and Figure 3).

Wagner also teaches obtaining name, address, and credit card information from the advertiser (page 3 paragraph 34 and Figure 3). Wagner does not specifically teach receiving log in information from the advertiser for establishing and managing the ad campaigns, wherein *each of* the ad campaigns comprise at least one advertisement. Mason teaches receiving log in information from the advertiser for establishing and managing the ad campaigns, wherein *each of* the ad campaigns comprise at least one advertisement (col. 5 lines 33-46, col. 7 lines 5-13, and Figure 1). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include receiving log in information from the advertiser for establishing

and managing the ad campaigns, wherein *each of* the ad campaigns comprises at least one advertisement to prevent the advertiser from having to re-enter credit card and identification information each time the advertiser uses the interface.

Wagner does not specifically teach that the advertisement also comprise a hyperlink to a web page associated with the advertiser. Official Notice is taken that it is old and well known for an advertisement also comprise a hyperlink to a web page associated with the advertiser. For example, an advertisement in the newspaper can list a URL to a manufacturer's website where additional information about the advertised product can be obtained such as pictures or specifications an item. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include in the advertisement a hyperlink to a web page associated with the advertiser to enable viewers to access other images and detailed information associated with the text advertisement at the website.

Wagner does not teach the method wherein each impression or conversion of the displayed advertisements reduces the budget amount by the selected cost. Davis teaches the method wherein each impression or conversion of the displayed advertisements reduces the budget amount by the selected cost (col. 13 lines 3-24). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include reducing the budget amount by the selected cost based on each impression of the displayed advertisement to enable the advertiser to track how many times his advertisement has been shown to a user.

*Wagner does not specifically teach receiving, from the advertiser, a selection of the ad campaign to be managed from among the ad campaigns and a management screen wherein each of the ad campaigns is managed by the advertiser using the web-based self-serve interface. Davis teaches receiving, from the advertiser, a selection of the ad campaign to be managed from among the ad campaigns and a management screen wherein each of the ad campaigns is managed by the advertiser using the web-based self-serve interface. (col. 18 lines 37 to col. 19 lines 58 and Figure 9). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include receiving, from the advertiser, a selection of the ad campaign to be managed from among the ad campaigns and a management screen wherein each of the ad campaigns is managed by the advertiser using the web-based self-serve interface to enable the advertiser to manage multiple campaigns from the same interface simultaneously without accessing the information for each campaign individually.*

23. In reference to claim 116, Wagner teaches the computer readable medium wherein the creation of one or more advertisements comprises: providing a plurality of template advertisements (page 3 paragraphs 36 and 37, page 4 paragraphs 41 and 42, and Figure 3); obtaining a selection of one of the template advertisements; obtaining information to be inserted into the selected template advertisement (page 3 paragraphs 36 and 37, page 4 paragraphs 41 and 42, and Figure 3); and creating the selected advertisement based on the information to be inserted into the template advertisement (page 3 paragraphs 36 and 37, page 4 paragraphs 41 and 42, and Figure 3).



24. In reference to claims 117 and 118, Wagner teaches the computer readable medium wherein the information obtained for the selected template advertisement comprises a description (page 3 paragraphs 36 and 37, page 4 paragraphs 41 and 42, and Figure 3).

Wagner does not specifically teach that the advertising information also comprise a URL and an image. Official Notice is taken that it is old and well known for advertising information to include a URL and an image. For example, an advertisement in the newspaper can list a URL where additional information about the advertised product can be obtained such as pictures of a house or an item. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include in the advertising information a URL to enable viewers to access videos or other images associated with the text advertisement by viewing the URL.

25. In reference to claims 119 and 120, Wagner does not teach displaying an active status of the ad campaigns to the advertiser. Mason teaches displaying an active status of the ad campaigns to the advertiser (col. 6 lines 27-65). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include displaying an active status of the ad campaigns to the advertiser to keep the advertiser informed about the success of the advertisements in real-time.

26. In reference to claim 121, Wagner does not teach the computer readable medium further comprising reviewing content of the advertisements from the established ad campaign. Mason teaches reviewing content of the advertisements from the established ad campaign (col. 3 lines 35-42 and col. 5 lines 53-61). It would have been

obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include reviewing content of the advertisements from the established ad campaign to ensure that there are no typographical errors in the text of the advertisements.

27. In reference to claim 122, Wagner does not teach the computer readable medium wherein the reviewing determines if the advertisements are approved or not approved, and when the advertisements are deemed not approved, the advertisements are rejected and the ad campaign status is suspended, and when the advertisements are deemed approved, the advertisements are accepted and the ad campaign status is active. Mason teaches reviewing the selected advertisement to determine if the advertisement is approved or not approved (col. 3 lines 35-42 and col. 5 lines 53-61), and when the advertisement is deemed not approved, the advertisement is rejected and the ad campaign status is suspended (i.e. a new advertisement is created) (col. 5 lines 53-61), and when the advertisement is deemed approved, the advertisement is accepted and the ad campaign status is active (col. 5 lines 53-61). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to review if the advertisements are approved or not approved, and when the advertisements are deemed not approved, the advertisements are rejected and the ad campaign status is suspended, and when the advertisements are deemed approved, the advertisements are accepted and the ad campaign status is active to ensure that there are no typographical errors in the text of the advertisements and only advertisements that do not have any errors are displayed.

28. In reference to claim 123, Wagner does not teach the computer readable medium wherein the advertiser can modify the status of the ad campaigns through the self-serve interface. Mason teaches the method wherein the advertiser can modify the status of the ad campaigns through the self-serve interface (col. 4 lines 54-67 and col. 6 lines 27-59). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include modifying the status of the ad campaigns through the self-serve interface to enable the advertiser to replace non-performing advertisements with better performing advertisements.

29. In reference to claim 125, Wagner does not teach the computer readable medium further comprising providing a campaign summary report for viewing details for each of the multiple ad campaigns. Mason teaches the method further comprising providing a campaign summary report for viewing details for each of the multiple ad campaigns (col. 6 lines 27-col. 7 lines 13). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Wagner to include providing a campaign summary report for viewing details for each of the multiple ad campaigns to enable the advertiser to see the impact of the advertisements and to make decisions regarding continuing, replacing, or ending the showing of the advertisements.

30. In reference to claim 126, Wagner does not teach the computer readable medium wherein receiving the budget from the advertiser comprises receiving a request for an automatic payment plan that automatically replenishes the amount of funds when the amount drops below a predetermined threshold. Official Notice is taken that it is old and well known to receive a request for an automatic payment plan that automatically

replenishes the amount of funds when the amount drops below a predetermined threshold. For example, people set up automatic bill pay features to pay their utilities from their checking accounts and when a balance is due, the amount that is due is transmitted to the utility account to make it come to a zero balance automatically. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include receiving a request for an automatic payment plan that automatically replenishes the amount of funds when the amount drops below a predetermined threshold to enable the advertiser to continue advertising a particular advertisement without requiring the advertiser to resubmit billing information manually for the longer advertising time period.

31. In reference to claims 127 and 128, Wagner does not teach the computer readable medium wherein establishing the ad campaign by the advertiser further comprises receiving a name for the ad campaign from the advertiser and wherein the management screen for the advertiser comprises viewing and editing the name of the ad campaign by the advertiser. Official Notice is taken that it is old and well known to receive a name for the ad campaign from the advertiser wherein the management screen for the advertiser comprises viewing and editing the name of the ad campaign by the advertiser. For example, TV stations that play advertisements have to assign some kind of identifying information to an advertisement belonging to an advertiser in order to know when to show which advertisement. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include receiving a name for the ad campaign from the advertiser wherein the management

screen for the advertiser comprises viewing and editing the name of the ad campaign by the advertiser to enable the publisher to keep track of which advertisements are associated with which advertisers and to keep track of when and where each advertisement needs to be displayed.

32. In reference to claim 129, Wagner does not teach the computer readable medium wherein establishing the ad campaign by the advertiser further comprises receiving a request from the advertiser for an alert regarding pricing availability. Davis teaches the method wherein establishing the ad campaign by the advertiser further comprises receiving a request from the advertiser for an alert regarding pricing availability (col. 13 lines 64 to col. 14 lines 20). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include receiving a request from the advertiser for an alert regarding pricing availability to enable an advertiser to monitor the cost associated with listing an advertisement without having to visit the website continuously.

33. In reference to claims 130 and 131, Wagner does not teach the computer readable medium wherein establishing the ad campaign by the advertiser further comprises receiving a request from the advertiser for an e-mail alert when the amount of funds drops below a predetermined threshold. Davis teaches the method wherein establishing the ad campaign by the advertiser further comprises receiving a request from the advertiser for an e-mail alert when the amount of funds drops below a predetermined threshold (col. 13 lines 64 to col. 14 lines 20). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's

invention to include receiving a request from the advertiser for an e-mail alert when the amount of funds drops below a predetermined threshold to enable the advertiser to ensure that his account is not suspended as a result of non-payment and the advertisement remains active.

33. In reference to claim 132, Wagner does not teach the computer readable medium wherein the cost comprises an effective cost per Mil (eCPM) for the advertisement. Official Notice is taken that is old and well known in the area of Internet advertising to use measurements including the cost per a thousand impressions and cost per click to rank potential advertisements in a way to maximize earnings of the website owner. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Wagner's invention to include the use of the cost per thousand impressions in order to prioritize advertisement display based on the payout that can be achieved from the display.

34. In reference to claim 133, Wagner teaches the computer readable medium of wherein the advertisement comprises of text only (page 3 paragraphs 34, 36, 37, and 38, page 4 paragraph 38, and Figure 3).

**Response to Arguments**

35. After careful review of Applicant's remarks/arguments filed on 01/19/2010, the Applicant's arguments with respect to claims 95-108, 110-123, and 125-133 are presented for examination and have been fully considered but are moot in view of the new ground(s) of rejection. Amendments to the claims have both been entered and considered.

36. Applicant amendments have caused the introduction of new 35 U.S.C. 101 and 35 U.S.C. 112 second paragraph rejections.

37. Applicant argues that Mason and Davis should not be combined, because Davis teaches that the rate at which people click on banner ads can be quite low and Mason teaches the use of banner advertising. With regards to this argument, Davis is not teaching away, since Davis does not state that this cannot be done. Additionally, a reference is no less anticipatory if, after disclosing the invention, the reference then disparages it. Thus, the question whether a reference 'teaches away' from the invention is inapplicable to an anticipation analysis. See *Celeritas Techs. Ltd. v. Rockwell Int'l Corp.*, 47 USPQ2d 1516 (Fed. Cir.1998). Furthermore, disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or non-preferred embodiments. See *In re Susi*, 169 USPQ 423 (CCPA 1971). Just because a system can accomplish a task one way does not mean that it can't do this another way, and accomplishing the task by two different ways does not mean one way teaches away from another way. Additionally, disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or non-preferred embodiments. In *re Susi*, 169 USPQ 423 (CCPA 1971). While it may be preferred to have one way of advertising to customers via the internet, this does not mean that there can only be one way of accomplishing this task. Furthermore, per *KSR*, known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art. Here, if advertisers see an increase in the click thru rate for

banner ads that are targeted and that are modified during an ad campaign, they may desire to bid to place banner ads and also place bids on keywords to maximize exposure to their websites. In fact, both banner ads and keywords are very much in use today by advertisers, banner ads provide the opportunity to include graphics that text based keyword ads do not.

38. Applicant argues that regarding claims 103 and 122, Mason doesn't teach a change in status between active and suspended. The Examiner respectfully disagrees, since Mason teaches accepting approved ads and rejecting and suspending the ads that have not been approved (col. 3 lines 35-42 and col. 5 lines 53-61).

39. Applicant argues regarding claim 108 that none of the references disclose the features of claim 108 and the rejection is based on personal knowledge. Further, the Applicant wants an affidavit to support the rejection. With respect to this argument, this does not constitute a proper challenge to the Official Notice. Per the MPEP 2144.03, "A seasonable challenge constitutes a demand for evidence be made as soon as practicable during prosecution. Thus the applicant is charged with rebutting the well known statement in the next reply after the Office Action in which the well known statement was made." The Applicant has not submitted any rebuttal of the well-known statements, but has merely stated that the Applicant that none of the references disclose the features of claim 108 and the rejection is based on personal knowledge and further, the Applicant wants an affidavit to support the rejection. In the paragraph in MPEP 2144.03 immediately preceding the above citing, reference is made to In re Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418, 420-421 (CCPA 1970) that "Furthermore, the applicant



must be given the opportunity to challenge the correctness of such assertions and allegations." Again, the Applicant has not challenged the correctness of the assertions. Bald statements such as none of the references disclose the features of claim 108 and the rejection is based on personal knowledge and further, the Applicant wants an affidavit to support the rejection are not adequate and do not shift the burden to the examiner to provide evidence in support of the Official Notice. Allowing such statements to challenge Official Notice would effectively destroy any incentive on part of the Examiner to use it in the process of establishing a rejection of notoriously well-known facts (In re Boon, 169 USP 231 (CCPA 1971)).

Regardless, the Examiner has found a reference in support of this Official Notice that has been attached to this Office Action. Specifically, the article by Business Editors, titled "Con Edison Integrates Intell-A-Check! Software To Support Direct Payment Plan," published in Business Wire on July 6, 1999 on page 1, teaches allowing utility customers to pay their utility bills online using their checking account where payments are automatically transferred from the checking account and credited to the Con Edison account each month (page 1).

40. Applicants additional remarks are addressed to new limitations in the claims and have been addressed in the rejection necessitated by the amendments.

#### **Conclusion**

41. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **Central FAX** phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

/NAMRATA BOVEJA/

Primary Examiner, Art Unit 3622